

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Telephone Number Portability
Cost Classification Proceeding

CC Docket No. 95-116
RM 8535

RESPONSE TO OPPOSITION TO APPLICATION FOR REVIEW

Only AT&T has filed to defend the Bureau's order¹ as being consistent with the Commission's number portability cost recovery regulations. However, AT&T largely ignores the points made in Bell Atlantic's² application for review.

Bell Atlantic is not quarreling with the two-part test AT&T cites.³ In fact, the second part of the two-part test AT&T supports — that the expenses must have been incurred “for the provision of number portability services” — tracks reasonably closely to the Commission's regulations, which permit the recovery of “carrier-specific costs directly related to providing long-term number portability.”⁴ What Bell Atlantic is quarreling with is the cramped reading that AT&T makes (and the Bureau sometimes seems to make) of the phrase “directly related to providing long-term number portability.”

¹ *Telephone Number Portability Cost Classification Proceeding*, DA 98-2534 (rel. Dec. 14, 1998) (“Bureau Order”).

² Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company and New England Telephone and Telegraph Company.

³ AT&T at 2.

⁴ 47 C.F.R. § 52.33(a).

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The statute and the Commission's rules are clear that "the provision of number portability" has two elements — that customers be able to keep their telephone numbers when changing service providers and that they suffer no "impairment of quality, reliability, or convenience when" they do so.⁵ AT&T claims that the Bureau "considered and rejected" this argument that there is a "no impairment" component of the definition, but that is not correct. The Bureau, in fact, appears to have ignored this statutory language and did not even refer to it in its order.⁶

AT&T does not even try to argue that the provision of number portability does not include doing the work to ensure that quality, reliability and convenience are not impaired. AT&T would be the first in line with a complaint against any exchange carrier whose provision of number portability failed to meet that standard. The costs a carrier incurs to meet the second part of the congressional definition of number portability are every bit as recoverable as the costs incurred to meet the first part. As a result, costs incurred to ensure the quality and reliability of service on a ported line — to ensure that 911 service works and that a customer is able to obtain repair service to pick just two examples — are costs directly related to the provision of number portability and are recoverable under the Act and the Commission's regulations.

AT&T also ignores Bell Atlantic's other argument — that the Bureau seemed to find that LECs could not recover their "advancement costs," the cost of spending money sooner rather than later, when the spending was advanced solely because of the need to implement number portability.

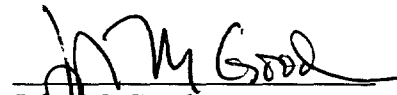
⁵ 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(p).

⁶ The Bureau seemed to think that the requirement that there be no "impairment of quality, reliability, or convenience" was a test that the Commission had developed for its consideration of QoR technology. *Bureau Order* ¶ 13.

These are real costs — costs for “the initial physical upgrading of the public switched telephone network”⁷ — and are, therefore, plainly recoverable under the test that AT&T supports.

AT&T in no way undercuts Bell Atlantic’s demonstration that Bell Atlantic is entitled to recover these costs. The Commission should, therefore, confirm that its rules permit LECs to recover all their costs incurred to provide number portability, including those costs incurred to ensure that customers can port without any impairment of quality, reliability and convenience and the costs of advancing investment which number portability required be made sooner.

Respectfully submitted,



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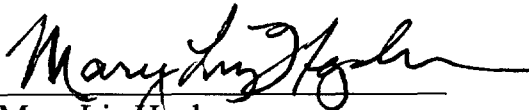
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Dated: February 10, 1999

⁷ *Telephone Number Portability*, 13 FCC Rcd 11701, ¶ 38 (1998).

CERTIFICATE OF SERVICE

I, Mary Liz Hepburn, hereby certify that on this 10th day of February 1999, a copy of the foregoing Bell Atlantic Response to Opposition to Application for Review was served by US Mail on the following parties. Where indicated with an asterisk, service was via hand-delivery.



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